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R-242

REQUESTED BY: Arnold J. Grasmoen  
State Banking Department

OPINION BY: ROBERT W. PICKRELL  
The Attorney General

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**ARIZONA ATTORNEY GENERAL**

QUESTION: Is a bank in violation of §6-243, A.R.S. and subject to the penalties set forth in §6-248, A.R.S., if it is deficient in its reserves for any one day in the month, even though its average reserves for a month are equal to or greater than the average reserves required for the month?

CONCLUSION: Yes.

A.R.S. §6-243 reads as follows:

"§6-243. Legal reserves for commercial and savings banks

A. Commercial banks and savings banks shall maintain total reserves equal to the following percentages of the aggregate amount of their deposits, exclusive of deposits of the United States, postal savings funds and state, county, municipal and other deposits of public monies which are secured as required by law:

1. Commercial banks, ten per cent.
2. Savings banks, five per cent.

B. The reserves shall be maintained in lawful money of the United States or in solvent credits on deposit in a reserve depository or depositories which meet the qualifications prescribed. A bank may keep the legal reserve on deposit in a depository or depositories designated by it, which, except as otherwise provided in this article, shall be a bank, trust company or national banking association approved by the superintendent.

C. Not more than twenty-five per cent of a bank's legal reserve on deposit shall be kept in any one depository having a capital stock and surplus of less than two hundred thousand dollars, and the reserve on deposit shall not exceed fifteen per cent of the capital stock and sur-

plus of the reserve depository. A bank shall not be a reciprocal reserve depository for another bank. A bank having both commercial and savings departments shall maintain the legal reserve for each department."

It is readily apparent that the legislative intent was to insure sound banking practices in the State of Arizona. This is evidenced by A.R.S. §6-244, which permits the Superintendent of Banks to increase the requisite reserves of 5% and 10% (set forth above) should the Superintendent determine that such is necessary for the sound economy and banking industry of the state.

It would be contrary to the intent of the legislature and unsound banking practice to allow a bank to establish a tremendous surplus in their reserves for any one day of a monthly period and thereby establish a proper reserve for the period, notwithstanding the fact that the reserves for some or all of the remaining days of the period were deficient.

Furthermore, A.R.S. §6-245, infra, requires reports showing the average daily deposits and the amount and character of the reserves maintained against the deposits.

A.R.S. §6-245 reads as follows:

"6-245. Reports of deposits and reserves

A report showing the average daily deposits and the amount and character of reserves maintained against the deposits shall be submitted to the superintendent monthly by each commercial and savings bank. The report shall be in the form prescribed by the superintendent and shall be transmitted not later than the tenth day of the month next succeeding the period covered thereby."

The above provision is obviously intended to require at least a daily accounting by a banking institution of its soundness; i.e. the deposits and the reserves.

It is the opinion of this office that a state bank is in violation of A.R.S. §6-243 and subject to the penalties required in A.R.S. §6-248, if it is deficient in its reserves for any one day of operation.

*Robert W. Pickrell*  
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The Attorney General *1962*